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09/802,998	03/12/2001	Hirohisa Naito	826.1698	6400

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EXAMINER

BOYCE, ANDRE D

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,998

Applicant(s)

NAITO ET AL.

Examiner

Andre Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-7, 16-20 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-7, 16-20 and 29-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Final office action is in response to Applicant's amendment filed October 17, 2005. Claims 3-7, 16-20, and 29-33 have been amended and are pending.
2. The previously pending rejections to claims 16-20 under 35 U.S.C. 101 have been withdrawn.
3. Applicant's arguments filed October 17, 2006 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 3-7, 16-20, and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brady et al (US 2002/0062244), in view of Fowler et al (US 2002/0026348).

As per claim 3, Brady et al disclose behavior data fee collection system using computer (central server 22 billing and collecting payments, ¶ 0038), comprising: data process unit (i.e., location manager 172, ¶ 0047) processing data in which a paired series of at least place information (i.e., define the location participating in the

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campaign, ¶ 0047) and information about the place (i.e., capabilities of the location, ¶ 0047), provided to a user are described according to a prescribed specification (i.e., limits on what kinds of campaigns will be hosted at the location, ¶ 0047). Brady et al does not explicitly disclose fee collection unit collecting a fee from a facility included in the place information described in the data based on at least one fee setting method for a service of providing routes to a user. Fowler et al disclose the merchant (i.e., facility/location) paying a participating fee to the market program administrator (¶ 0042). In addition, Fowler et al disclose designing a marketing program to encourage shoppers to visit a collection of merchants a particular location (¶ 0104). Both Brady et al and Fowler et al are concerned with effective target marketing, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include collecting a fee from a facility included in the place information in Brady et al, as seen in Fowler et al, as an effective means of providing a revenue model for the marketing program (see Fowler et al, ¶ 0042).

As per claim 4, Brady et al disclose behavior data fee collection system using a computer (central server 22 billing and collecting payments, ¶ 0038), comprising: data process unit (i.e., location manager 172, ¶ 0047) processing data in which a paired series of at least place information (i.e., define the location participating in the campaign, ¶ 0047) and information about the place (i.e., capabilities of the location, ¶ 0047), provided to a user are described according to a prescribed specification (i.e., limits on what kinds of campaigns will be hosted at the location, ¶ 0047); a

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place data acquisition unit obtaining place data transmitted from the unit (i.e., location server 16, ¶ 0038); and a behavior data generation unit totaling information from obtained place data as behavior data (i.e., central sever 22 collecting customer data and location data and analyzing the data to extract information concerning buying habits and thinking characteristics, ¶ 0041). Brady et al does not explicitly disclose a behavior data fee calculation unit calculating a fee of the behavior data based on at least one fee setting method for a service of providing routes to a user. Fowler et al disclose the merchant (i.e., facility/location) paying a participating fee to the market program administrator, wherein the fee may be flat per transaction or accrue as a percentage of transaction value (¶ 0042). In addition, Fowler et al disclose designing a marketing program to encourage shoppers to visit a collection of merchants a particular location (¶ 0104). Both Brady et al and Fowler et al are concerned with effective target marketing, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include calculating a fee of the behavior data in Brady et al, as seen in Fowler et al, as an effective means of providing a revenue model for the marketing program (see Fowler et al, ¶ 0042).

As per claim 5, Brady et al disclose behavior data fee collection system using computer (central server 22 billing and collecting payments, ¶ 0038), comprising facility data registration unit registering facility data (i.e., location manager 172, ¶ 0047); and a behavior data generation unit (i.e., location manager 172, ¶ 0047) generating data in which a paired series of at least place information (i.e., define the

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location participating in the campaign, ¶ 0047) and information about the place (i.e., capabilities of the location, ¶ 0047), provided to a user are described according to a prescribed specification (i.e., limits on what kinds of campaigns will be hosted at the location, ¶ 0047). Brady et al does not explicitly disclose a registration unit storing a user selected route, registering facility data along the user selected route, and a registration fee calculation unit calculating a registration fee when the data are registered. Fowler et al disclose the merchant (i.e., facility/location) paying a participating fee to the market program administrator (¶ 0042). In addition, Fowler et al disclose designing a marketing program to encourage shoppers to visit a collection of merchants a particular location (¶ 0104), wherein multiple marketing programs, associated with multiple merchants may be administered using a single unique customer identifier (¶ 0103). Both Brady et al and Fowler et al are concerned with effective target marketing, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include calculating a registration fee when the data are registered in Brady et al, as seen in Fowler et al, as an effective means of providing a revenue model for the marketing program (see Fowler et al, ¶ 0042).

As per claim 6, Brady et al disclose a behavior data fee collection system using a computer (central server 22 billing and collecting payments, ¶ 0038), comprising: a facility data registration unit registering facility data (i.e., location manager 172, defining participating locations ¶ 0047); a behavior data generation unit (i.e., location manager 172, ¶ 0047) generating data in which a paired series of at least place

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information (i.e., define the location participating in the campaign, ¶ 0047) and information about the place (i.e., capabilities of the location, ¶ 0047), provided to a user are described according to a prescribed specification (i.e., limits on what kinds of campaigns will be hosted at the location, ¶ 0047); and a behavior data process unit obtaining information about use of data when the data is generated (i.e., central sever 22 collecting customer data and location data and analyzing the data to extract information concerning buying habits and thinking characteristics, ¶ 0041). Brady et al does not explicitly disclose charging a fee against each facility along a route selected by the user. Fowler et al disclose the merchant (i.e., facility/location) paying a participating fee to the market program administrator (¶ 0042). In addition, Fowler et al disclose designing a marketing program to encourage shoppers to visit a collection of merchants a particular location (¶ 0104). Both Brady et al and Fowler et al are concerned with effective target marketing, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include charging a fee against each facility in Brady et al, as seen in Fowler et al, as an effective means of providing a revenue model for the marketing program (see Fowler et al, ¶ 0042).

As per claim 7, Brady et al disclose a behavior data fee collection system using a computer (central server 22 billing and collecting payments, ¶ 0038), comprising: a facility data registration unit registering facility data (i.e., location manager 172, defining participating locations ¶ 0047); a behavior data generation unit (i.e., location manager 172, ¶ 0047) generating data in which a paired series of at least place

information (i.e., define the location participating in the campaign, ¶ 0047) and information about the place (i.e., capabilities of the location, ¶ 0047), provided to a user are described according to a prescribed specification (i.e., limits on what kinds of campaigns will be hosted at the location, ¶ 0047); a behavior data process unit (i.e., central server 22, ¶ 0041) obtaining information about use of data when the data are downloaded (i.e., collection of location data, ¶ 0041), when use of the data is started, when each facility is reported in a process of the data or when guidance or advertisement on each facility is presented to a user in a process of the data (i.e., defining the capabilities of the locations, what campaigns the locations will participate in, and the limits on what kind of campaigns will be hosted at each location, ¶ 0047). Brady et al does not explicitly disclose charging a fee against each facility along a route selected by the user. Fowler et al disclose the merchant (i.e., facility/location) paying a participating fee to the market program administrator (¶ 0042). In addition, Fowler et al disclose designing a marketing program to encourage shoppers to visit a collection of merchants a particular location (¶ 0104). Both Brady et al and Fowler et al are concerned with effective target marketing, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include charging a fee against each facility in Brady et al, as seen in Fowler et al, as an effective means of providing a revenue model for the marketing program (see Fowler et al, ¶ 0042).

Claims 16-20 are rejected based upon the rejection of claims 3-7, respectively, since they are the method claims, corresponding to the system claims.

Claims 29-33 are rejected based upon the rejection of claims 3-7, respectively, since they are the storage medium claims, corresponding to the system claims.

Response to Arguments

6. In the Remarks, with respect to claims 3, 16, and 29, Applicant argues that there is no suggestion of a paired series of at least place information and information about the place in the cited passage of Brady et al. The Examiner respectfully disagrees and submits that Brady et al discloses location manager 172 defines the locations that will participate in the campaign, the demographics of the location, and the limits of the location (§ 0047), thereby defining data place information and information about the place. Applicant goes on to argue that Fowler et al fails to disclose collecting a fee from a facility based on at least one fee setting method for a service of providing routes to a user. The Examiner respectfully disagrees and submits that Fowler et al discloses designing a marketing program to encourage shoppers to visit a collection of merchants a particular location (§ 0104), thereby providing routes for a user.

In addition to the arguments discussed above, Applicant also argues, with respect to claims 4, 17, and 30, that neither Brady et al nor Fowler et al disclose a behavior data generation unit totaling information from obtained place data as behavior data and calculating a fee of the behavior data. The Examiner respectfully disagrees and submits that Fowler et al discloses a central sever 22 collecting

customer data and location data and analyzing the data to extract information concerning buying habits and thinking characteristics (§ 0041).

In addition to the arguments discussed above, Applicant also argues, with respect to claims 5, 18, and 31, that Fowler et al fails to disclose a registration unit storing a user selected route and calculating a registration fee when the data are registered. The Examiner respectfully disagrees and submits that Fowler et al disclose the merchant (i.e., facility/location) paying a participating fee to the market program administrator (§ 0042). In addition, Fowler et al disclose designing a marketing program to encourage shoppers to visit a collection of merchants a particular location (§ 0104), wherein multiple marketing programs, associated with multiple merchants may be administered using a single unique customer identifier (§ 0103).

In addition to the arguments discussed above, Applicant also argues, with respect to claims 6, 7, 19, 20, 32, and 33, that Fowler does not teach or suggest charging a fee against each facility along a route selected by the user. The Examiner respectfully disagrees and submits that Fowler et al disclose designing a marketing program to encourage shoppers to visit a collection of merchants a particular location (§ 0104), wherein multiple marketing programs, associated with multiple merchants may be administered using a single unique customer identifier (§ 0103).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571) 272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



adb

January 4, 2006



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